

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

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NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

07.09.2004

MORGAN, LEWIS & BOCKIUS LLP

Applicant's or agent's file reference
57734-5005WO

IMPORTANT NOTIFICATION

International application No.
PCT/US 03/17300

International filing date (day/month/year)
03.06.2003

Priority date (day/month/year)
05.06.2002

Applicant

THE TEXAS A&M UNIVERSITY SYSTEM et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
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Authorized Officer

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DOCKETED

By *RB* Date *8-11-04*

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

| | | | |
|---|--|--|--|
| Applicant's or agent's file reference 57734-5005WO | FOR FURTHER ACTION | | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) |
| International application No. PCT/US 03/17300 | International filing date (<i>day/month/year</i>) 03.06.2003 | Priority date (<i>day/month/year</i>) 05.06.2002 | |
| International Patent Classification (IPC) or both national classification and IPC B01D57/02 | | | |
| Applicant THE TEXAS A&M UNIVERSITY SYSTEM et al. | | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

| | | |
|------|-------------------------------------|--|
| I | <input checked="" type="checkbox"/> | Basis of the opinion |
| II | <input type="checkbox"/> | Priority |
| III | <input type="checkbox"/> | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| IV | <input type="checkbox"/> | Lack of unity of invention |
| V | <input checked="" type="checkbox"/> | Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| VI | <input type="checkbox"/> | Certain documents cited |
| VII | <input type="checkbox"/> | Certain defects in the international application |
| VIII | <input type="checkbox"/> | Certain observations on the international application |

| | |
|--|---|
| Date of submission of the demand 12.12.2003 | Date of completion of this report 07.09.2004 |
| Name and mailing address of the international preliminary examining authority: <div style="margin-left: 20px;"> European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 </div> | Authorized Officer Degen, M Telephone No. +49 89 2399-8612 |



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/17300**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-24 as originally filed

Claims, Numbers

1-35 as originally filed

Drawings, Sheets

1/9-9/9 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/17300**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-35 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-35 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-35 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US 03/17300

1. The following documents were cited in the international search report:

- D1: US 2002/043465 A1 (RYLATT DENNIS BRIAN ET AL) 18 April 2002 (2002-04-18)
D2: US-A-4 243 507 (MARTIN ARCHER J P ET AL) 6 January 1981 (1981-01-06)
D3: EP-A-0 369 945 (ALIGENÀ AG) 23 May 1990 (1990-05-23)
D4: RIGHETTI P G ET AL: 'Protein purification in multicompartiment electrolyzers with isoelectric membranes' JOURNAL OF CHROMATOGRAPHY B: BIOMEDICAL SCIENCES & APPLICATIONS, ELSEVIER SCIENCE PUBLISHERS, NL, vol. 699, no. 1-2, 10 October 1997 (1997-10-10), pages 105-115, XP004094992 ISSN: 1570-0232
D5: US 2002/060154 A1 (VIGH GYULA) 23 May 2002 (2002-05-23)

2. Independent **claim 1** meets the criteria set out in articles 35(2)-(4) PCT, because the above cited prior art documents do not teach or fairly suggest such a method for separating an ampholytic component by electrophoresis.
- 2.1 The teaching of prior art is generally the separation of ampholytes at their pI. Here the ampholytic component is separated in a non-isoelectric state (article 33(2) PCT).
- 2.2 The advantage over known isoelectric state separations is the velocity of the separation (article 33(3) PCT).
3. Dependent **claims 2-35** concern particular embodiments of the subject-matter of above independent **claim 1**, and therefore, they fulfil the requirements of Articles 33(2) - (4) PCT as well.